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76-316

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R76-389

November 29, 1976

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ARIZONA ATTORNEY GENERAL

Mr. Robert J. Roberson  
Deputy County Attorney  
Yuma County  
P. O. Box 1048  
Yuma, Arizona 85364

Dear Mr. Roberson:

This letter is in response to your opinion of September 3, 1976, concerning a proposal by the Board of Education of Union High School District No. 60 to engage in a cooperative venture with the Town of Parker to construct and maintain a community swimming pool. While we concur with the result, there are several points that warrant additional discussion.

A.R.S. § 11-952, et seq., provides the statutory authority for intergovernmental agreements and contracts, but A.R.S. § 15-1171 is the specific statutory authority for school districts to enter into agreements with local governments to construct and maintain swimming pools and other recreational facilities. Under A.R.S. § 15-1171(A), a school district can enter into such an agreement if the swimming pool is "on properties used for public school purposes and under the control of such school districts" as long as school district money is not used for the construction and development of the pool or recreational facility. School district funds can be used for maintenance and upkeep of the facility once it is constructed.



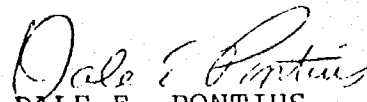
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However, it is also true that a school district, acting alone, can expend school district levy money under A.R.S. § 15-445 for the construction and development of a swimming pool on school property since swimming pools are considered school buildings. Alexander v. Phillips, 31 Ariz. 503, 254 P. 1056 (1927); Op. Atty Gen. 56-116.

In summary, we think that these statutes, when read together, mean that the school district can enter into an interagency agreement for the Town of Parker to build a pool if the pool were built on property used for public school purposes and under the control of the school district, but school district money cannot be used for other than maintenance and operation costs. The school district could, however, construct its own pool out of levy monies and presumably rent or lease the facilities to the city when not in use for physical education classes, or the school district could rent the town's pool for its physical education needs.

Sincerely,

BRUCE E. BABBITT  
Attorney General

  
DALE E. PONTIUS  
Assistant Attorney General

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